C.S.100 003

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 8454 OF 2004

PETITIONER Tikeshwar Prasad Sahu S/o. Late Gajanand Prasad, Aged about 35 years, R/o- Village-Kudamkela Thesil- Gargorgha Disst.Raigarh (C.G.)

Presented by Shri K.T. Modi
Date 21-9-04

VERSUS

RESPONDENTS

1. Union of India, Through; its Secretary, Department of Personnel, New Delhi.
2. State of Chhattisgarh Through its Secretary,Department of forest,D.K.S. Bhawan, Raipur(C.G.)
3. State of Madhya Pradesh Through its Secretary,Department of forest,Ballav Bhawan, Bhopal (M.P.)
4. Collector Raigarh (C.G.)
5. Divisional Forest Officer Raigarh Forest Division Raigarh (C.G.)
6. District education Officer Raigarh (C.G.)

Received Copy
M.G. Paul
17/09/04
Advocate
for
VINAY HARIT
Senior Central Government Standing Counsel
CHHATTISGARH HIGH COURT

RECEIVED COPY
17/9/04
Clerk to A.G.

17/9/04

(2)

004

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

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HIGH COURT OF CHHATTISGARH : BILASPUR

WRIT PETITION NO. 1322 OF 2002

Anoop Mishra

Vs.

The State of Chhattisgarh and Others

&

Other connected Writ Petitions

ORDER

(Dated 28th/December, 2005)

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WRIT PETITION NO.1336/2002
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WRIT PETITION NO.1752/2002
(Manoj Kumar Bhardwaj vs. State of C.G. & Ors.)

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Shri V.D. Bajpai, Sr. Advocate Shri P. Diwakar, Sr. Advocate, Shri Manindra Shrivastava, Sr. Advocate, Shri Ashish Shrivastava, Shri Afroz Khan, Ku. Sunita Jain, Shri Kunal Das, Shri Ashok Das Vaishnav, Shri R.N. Jha, Ku. Meenu Benarjee, Shri Somnath Verma, Shri Gautam Khetrapal, Ku. Deepali Pandey, Shri Sanjay Kumar Agrawal, Shri Aneesh Pandey, Shri Manoj Paranjape, Shri Sanjay Agrawal, Shri Vijay Deshmukh, Shri M.K. Bhaduri, Shri Ajit Singh, Shri Sushil Dubey, Shri Rakesh Jha, Shri D.R. Patel, Shri A.N. Bhakta, Shri G.R. Miri, Smt. Indira Tripathi, Shri Virendra Sharma, Shri Anand Tiwari, Shri Sudhir Verma, Shri P.P. Sahu, Shri H.S. Ahuiwalia, Ku. Maya Singh, Ku. Abilasha Naidu, Shri Sameer Behar, Shri Satyendra Sahu, Shri Deepak Jain, Shri Prakash Tiwari, Shri S.R.J. Jaiswal, Shri Vinay Pandey, Smt. Renu Kochar, Shri Narendra Chandel, Shri Sunil Sahu, Shri Pankaj Shrivastava, Shri V.K. Pandey, Shri Alok Dewangan, Shri Praveen Das, Shri Manoj Mishra, Shri Avinash K. Mishra, Shri Ranbir Singh Marhas, Shri B.P. Gupta, Shri R.N. Mukhopadhyay, Shri L.C. Dash, Shri I.S. Sahu, Shri Rakesh Antony, Advocates etc. for the petitioners.

Shri V.V.S. Moorthy, Dy. Advocate General, Shri P.S. Koshy, Dy. Advocate General, Shri Sandeep Dubey, Govt Advocate, Shri Ramakant Mishra, Govt. Advocate, Shri A.S. Kachhawaha, Dy. G.A., Shri Satish Gupta, Dy.G.A. & Shri Vivek Sharma, Panel Lawyer for the State of Chhattisgarh.

Shri S.K. Beriwal, Senior Panel Lawyer for the Union of India.

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ORDER

Per Hon. Shri Fakhruddin, J :

The above writ petitions have been heard analogously and are being disposed of by this common order.

2. The aforesaid matters relate to compassionate appointment consequent upon the death of an employee serving in the State. These matters are pending consideration before this Court and have been heard from time to time on various dates. Some of these cases were listed on 17-11-2004 and 23-12-2004. Learned counsel for the State of Chhattisgarh had pointed out on earlier date that there was a policy in force for compassionate appointment, but the State of Madhya had issued certain orders on 1-5-2000 imposing restrictions and limitations on compassionate appointment. Meanwhile, Re-organization Act came into existence on 1-11-2000. It was further submitted that on 28/29-6-2002 orders were issued by the State of Chhattisgarh to the effect that till further instructions the compassionate appointment orders be kept in abeyance. It was also submitted that the State of Chhattisgarh framed a policy on 10-6-2003 under Executive power by order and in the name of the Governor of Chhattisgarh whereby it was decided that those persons who have died on or after 1-11-2000 i.e. after the formation of State of Chhattisgarh, only their cases will be considered and not those who have died prior to 1-11-2000. In view of this stand taken by the counsel for the State of Chhattisgarh, the State of Madhya Pradesh and the Union of India were noticed and that is why the State of Madhya Pradesh and the Union of India are the parties in some of the cases.

3. The matters were again listed on 18-11-2005. Time was granted to the parties including Union of India to file appropriate reply and come forward with a decision/view as to what is the stand of the Union of India.

4. It is appropriate to state that the appointment on compassionate ground is not a source of recruitment but merely an exception to the requirement regarding appointments being made on open invitation of application on merits. Basic intention is that on the death of employee concerned his family is not deprived of the means of livelihood. The object is to enable the family to get over sudden financial crisis. The claims are to be considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the State and dies while in service.

5. So far as the present cases are concerned, learned Dy. Advocate Generals made a statement that the State of Chhattisgarh has taken a decision to consider the cases three years prior to reorganization i.e. those

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State employees whose death occurred on or after 1-11-1997 and strictly in accordance with the policy prevalent at the time of death of an employee. This statement is recorded.

6. Learned counsel appearing for the respective petitioners in the bunch of cases categorically stated that in each and every case the death of the employee has occurred on or after 1-11-1997 and not earlier. Learned counsel further submitted that their cases may be considered and decision may be taken at the earliest. They also submitted that the petitioners will render due cooperation to the authorities. This statement is also recorded.

7. Learned counsel for the State submit that in every petition three sets have been filed by the petitioners; in some cases extra sets are required by them which may be allowed to be taken by them from the Court record. The State counsel may take the extra sets from the office wherever they require. They also pray for three months time to decide the cases of the petitioners.

8. In view of the submissions made by learned counsel appearing for the parties, without expressing any opinion on the merits of the case, in the opinion of this Court, ends of justice will be served if a direction is given to the State and the authorities concerned to consider and decide the cases of the petitioners/dependants of the employees who died on 1-11-1997 and thereafter in accordance with the policy which was in force at the time of death of the employee. Each and every individual case will be decided and if the person found eligible, appointment orders will be issued as early as possible on or before **30th April, 2006**. The petitioners are also directed to render due co-operation to the authorities. It is made clear that if any grievance still remains, the petitioners may avail the remedy available under the law including filing of the petition before this Court.

9. Subject to the aforesaid directions and observations, all these petitions stand disposed of with the aforesaid liberty.

10. Consequently, pending applications, if any, also stand disposed of. In some cases, applications seeking formal amendments regarding correction of cause-title, etc. have been filed. They are allowed. The amendment be incorporated and the corrections, if any, be made.

11. A copy of this order be placed in all the connected cases.

Certified copy as per rules.

Copy of this order be also supplied to the State counsel.

Sd/-
Fakhruddin
Judge

Cowtl/P/H*